

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

KIM TOMLIN

PLAINTIFF

VS.

Case No. 04-CV-4049

LAFAYETTE COUNTY, ARKANSAS,
et al.

DEFENDANTS

ORDER

Before the Court is Defendants' Motion for Sanctions or, in the Alternative, to Dismiss. (Doc. 34) Plaintiff has responded. (Doc. 37) Defendants have filed a reply. The Court finds the motion ripe for consideration.

On September 1, 2005, the Court entered an order reopening discovery on the limited topic of Plaintiff's mental state and potentially symptomatic behavior.¹ The Court ordered the discovery be completed within 60 days of the forthcoming trial date. The Court later set a May 22, 2006 trial date², which meant discovery regarding Plaintiff's mental state should be completed by March 24, 2006.

Defendants have retained the services of Dr. Betty Feir to conduct a psychological examination of Plaintiff. Defendants asked Plaintiff to contact Dr. Feir to schedule the psychological examination. Plaintiff has not contacted Dr. Feir, and Defendants filed this motion seeking dismissal of this lawsuit as a sanction for failure to abide by the Court's order reopening discovery on the topic of Plaintiff's mental state.

The Court does not believe Plaintiff's conduct warrants sanctions. Four months remain

¹ Doc. 32.

² Doc. 33

to complete discovery. The Court finds Defendants' Motion for Sanctions should be and hereby is **denied**.

However, to ensure this case is ready for trial in May 2006, the Court orders Plaintiff to contact Dr. Feir and schedule a psychological examination within 14 days of the entry of this order. Dr. Feir's psychological examination of Plaintiff shall take place by January 23, 2006. This schedule will give Dr. Feir time to complete a report and give the parties time to depose Dr. Feir if necessary.

IT IS SO ORDERED, this 29th day of November, 2005.

/s/ Harry F. Barnes
Hon. Harry F. Barnes
U.S. District Court